

UNOFFICIAL COPY 95780532

PREPARED BY AND  
WHEN RECORDED, PLEASE RETURN  
TO:

MONOGRAM HOME EQUITY CORPORATION  
P.O. BOX 520490  
SALT LAKE CITY, UT 84152-0490



COOK COUNTY  
RECORDER  
JESSE WHITE

95 NOV -3 PM 3:55

RECORDING 45.00  
MAIL 10.50  
# 95780532

ROLLING MEADOWS above this line for recording data

MORTGAGE

Date: OCTOBER 27, 1995 Loan No.: 52 341014 19 Credit Limit: \$25,800.00

Borrower(s): PETER F. MCCARTHY, SINGLE MALE

Borrower(s) Address: 5307 SOUTH CORNELL AVENUE CHICAGO, IL 60615

Lender: MONOGRAM HOME EQUITY CORPORATION

Lender Address: 2180 SOUTH 1300 EAST SALT LAKE CITY, UT 84106

Land Trustee and Land Trust Identification (complete only if property held in Illinois Land Trust):

Land Trustee Address:

Permanent Index No. of Property: 20-12-111-024-1010

1. **Definitions; Purpose and Security.** In this Mortgage, the words "you" and "your" and "Borrower" mean the person or persons, jointly and severally, who have signed below as borrower(s), and the words "we", "us", and "our" mean the Lender identified above. The word "Mortgagor" shall mean, jointly and severally, each borrower signing below, and if title to the Property is held in an Illinois Land Trust, the Land Trustee identified above. Except where and as otherwise specified, terms used in this Mortgage shall be as defined in our Home Equity Line of Credit Agreement dated the same date as this Mortgage and signed by at least one Borrower (the "Agreement").

This Mortgage is given to the Lender as security for the Borrower's indebtedness evidenced by the Agreement and to secure the obligations and covenants contained in this Mortgage. The maximum amount of loan indebtedness that you will have outstanding at any time, which amount is secured by this Mortgage, shall not exceed the Credit Limit specified above, exclusive of interest thereon. The Agreement provides for monthly payments, with the full debt, if not paid earlier, due and payable as provided in the Agreement. Under some circumstances and repayment options, the Agreement will provide that all amounts outstanding and secured hereby may not be fully repaid for 320 months from the date hereof.

This Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Agreement, with interest, and all renewals, extensions, and modifications of the Agreement; (b) the payment of all other sums, with interest, advanced under this Mortgage or the Agreement to protect the security of this Mortgage; (c) the performance of the covenants and agreements under this Mortgage and the Agreement; and (d) the unpaid balances of loan advances made after the date of this Mortgage. For this purpose, Mortgagor does hereby irrevocably mortgage, grant, assign and convey to Lender, the real property commonly known as 5307 SOUTH CORNELL AVENUE CHICAGO, IL 60615

(the "Property Address") and more particularly described on attached Exhibit A, TOGETHER WITH all the improvements now

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Unless Lender and Borrower otherwise agree in writing, and subject to the terms of any Superior Mortgage, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, then, subject to the terms of any Superior Mortgage, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. Subject to the terms of any Superior Mortgage, if any

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Subject to the terms of any Superior Mortgage, Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

6. Insurance Coverage. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards, included within the term "fire and extended coverage," and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval, which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's right in the Property in accordance with this Mortgage.

As used in this Paragraph, "Permitted Lien" means (a) any existing mortgage or deed of trust on the Property as of the date of this Mortgage that has been disclosed in writing to Lender, to the extent that the amount secured by such mortgage or deed of trust does not exceed the amount so disclosed, and (b) any liens, claims, and restrictions of record, other than mortgage liens or deeds of trust that do not individually or collectively have a material adverse impact upon Lender's security, the value of the Property, or the Property's current use.

Except for a "Permitted Lien" (as defined below), Borrower shall promptly discharge any lien which has priority over this Mortgage unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defaults against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Mortgage, other than a Permitted Lien, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within ten (10) days of the giving of notice.

Borrower shall keep all novations and agreements made by Borrower in any deed of trust, mortgage or other security agreement having a lien priority superior to the lien priority of this Mortgage (in any case, a "Superior Mortgage"), including any payments under any Superior Mortgage.

5. Charges; Superior Mortgages; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Mortgage; all premiums for hazard or property insurance covering the Property; and leasehold payments or ground rents, if any. Borrower shall pay these obligations on time directly to the person owed payment. Upon Lender's request, Borrower shall promptly furnish to Lender receipts evidencing such payments.

4. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under this Mortgage or the Agreement shall be applied: first, to any credit life insurance premiums, next to any outstanding advances in excess of your credit limit, then against any fees or charges due under the Agreement or this Mortgage, then to any Finance Charges; and last, to advances.

3. Funds for Taxes and Insurance. At the request of Lender, Borrower shall begin making monthly payments into an escrow account for the payment of yearly taxes, insurance, and other yearly charges imposed upon the Property.

2. Payment of Principal and Interest; Other Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Agreement and any other charges due under the Agreement. The Agreement provides for changes in the interest rate and the monthly payments, which rate or payments or both may vary according to the terms of the Agreement.

or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage, collectively, as the "Property".

proceeds remain after the restoration or repair of the Property is completed, such proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within thirty (30) days a notice from Lender that the insurance carrier has offered to settle a claim, then, subject to the terms of any Superior Mortgage, Lender may collect the insurance proceeds. Subject to the terms of any Superior Mortgage, Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The thirty (30)-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in this Mortgage, or change the amount of the payments. If, under this Mortgage, the Property is acquired by Lender, then, subject to the terms of any Superior Mortgage, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

7. **Preservation, Maintenance, and Protection of the Property; Leaseholds; Borrower's Loan Application.** Mortgagor shall not: destroy, damage, or impair the Property; allow the property to deteriorate; or commit waste on the Property. If this Mortgage is on a leasehold, each Mortgagor shall comply with the provisions of the lease, and if any Mortgagor acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing. Mortgagor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Mortgage or Lender's security interest. Any Mortgagor may cure such a default by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of Mortgagor's interest in the Property or other material impairment of the lien created by this Mortgage or Lender's security interest. Mortgagor shall also be in default if Borrower, during the loan application process, gives materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by this Agreement.

8. **Protection of Lender's Right in the Property.** If Mortgagor fails to perform the covenants and agreements contained in this Mortgage, any Superior Mortgage, or the Agreement, or there is a legal proceeding that may significantly affect Lender's right in the Property, such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, or to enforce laws or regulations, then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include: appealing in court, paying taxes, assessments, charges, fines, impositions, reasonable attorney's fees in accordance with the law and premiums for insurance; curing any defaults and performing any or all of Borrower's obligations under any Superior Mortgage; and entering on the Property to make repairs. Although Lender may take action under this Mortgage, Lender does not have to do so.

Borrower agrees to reimburse Lender, upon demand, for any amounts Lender disburses or advances in taking any action allowed by this Mortgage. If Borrower fails to pay the full sum upon demand, Borrower authorizes Lender to advance the amount necessary to reimburse Lender for any amounts disbursed or any costs Lender incurs, which advance(s) will be charged against Borrower's credit line under the Agreement as if Borrower had written a credit line check for such amount.

9. **Inspection and Reappraisal.** Lender or its agent may make reasonable entries upon and inspections and reappraisals of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** Subject to the terms of any Superior Mortgage, the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Mortgagor shall give notice to Lender of any threatened condemnation and sign all documents required to carry out this Mortgage. No condemnation settlement may be made without Lender's prior approval, which approval shall not be unreasonably withheld.

In the event of such taking or conveyance of the Property, subject to the terms of any Superior Mortgage, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Mortgagor.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, but subject to the terms of any Superior Mortgage, either to restoration or repair of the Property or the sums secured by this Mortgage, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments otherwise referred to in this Mortgage or change the amount of such payments.

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11. **Borrower Not Released.** Extension of the time for payment or modification of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest.
12. **Transfer of or Failure to Occupy the Property.** If without Lender's prior written consent, all or any part of the Property or any interest in it, or, if applicable, the beneficial interest in the Land Trust holding title to the Property, is sold, transferred or assigned or Borrower fails to occupy the Property, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercised is prohibited by federal law as of the date of this Mortgage or when the transfer or sale is (a) to Borrower's spouse as a result of Borrower's death and Borrower's spouse is also obligated under the Agreement and Mortgage; (b) to Borrower's spouse where Borrower's spouse becomes a co-owner of the Property; (c) to Borrower's spouse as a result of a decree of dissolution of marriage, a legal separation agreement or from an incidental property settlement agreement which requires Borrower to continue to make loan payments; or (d) into an inter vivos trust in which Borrower is a beneficiary.
13. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any "Hazardous Substances" (as defined below) on, in or about the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any "Environmental Law" (as defined below). The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.
- As used in this Paragraph, "Hazardous Substance" are those substances defined as Hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety, or environmental protection.
- Mortgagee shall promptly give Lender written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substances or Environmental Law of which Borrower has actual knowledge. If Mortgagee learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all remedial actions in accordance with Environmental Law.
14. **Warranty of Title; Nature of the Property.** Mortgagee represents, warrants and covenants that Mortgagee is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, that the Property is unencumbered, except for encumbrances of record, and that Mortgagee will defend generally the title to the Property against all claims and demands, subject to any encumbrances of records. Mortgagee represents that the Property is improved by a structure or structures containing in the aggregate no more than one or two residential units with separate cooking facilities.
15. **Security Agreement and Fixture Filing.** This Mortgage constitutes a security agreement as that term is used in the Uniform Commercial Code of the State wherein the Property is located, and Mortgagee hereby grants to the Lender a security interest in all of the Property, which consists of fixtures subject to the Uniform Commercial Code as security for the indebtedness evidenced by the Agreement and this Mortgage (collectively, the "Obligations"). Pursuant to applicable law, this Mortgage shall be effective as a financing statement filed as a fixture filing from the date of its recording.
16. **Assignment of Leases, Rents and Income.** Subject to the terms of any Superior Mortgage and as additional security for the Obligations, Mortgagee hereby assigns to us, during the term of this Mortgage, any and all rents, issues, royalties, income, and profits of and from the Property. The collection of rents, issues, royalties, income, profits, proceeds of fire and other insurance policies, or compensation or awards for any taking or damaging of the Property or the application or release thereof as aforesaid or pursuant to any other or additional assignment of such rents and leases given to further secure the Obligations shall not cure or waive any default or notice of default hereunder, shall not invalidate any act done pursuant to such notice of default, and shall not operate to postpone or suspend any of the Obligations.
17. **Further Encumbrance Prohibited.** Except as a matter of public record on the date hereof, Mortgagee will not, without our prior written consent, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any mortgage, pledge, lien (statutory or contractual), security interest, encumbrance or charge, or conditional sale or other title retention agreement, regardless of whether same are expressly subordinate to the lien of this Mortgage, with respect to the Property, the leases or the rents.

18. Events of Default. Any of the following events shall be deemed an event of default hereunder:

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a. Default shall be made in the payment of any part of the principal sum or any installment of interest or any other sum secured hereby as and when the same become due under the Agreement; or

b. You shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file a petition or answer seeking or acquiescing in any arrangement, composition, readjustment, liquidation, or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of all or any part of the Property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing your inability to pay your debts generally as they become due; or

c. A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against you seeking any relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive) from the first date of entry thereof, or any trustee, receiver or liquidator of all or any part of the Property, or of any or all of the royalties, revenues, rents, issues, or profits thereof, shall be appointed or withheld without the consent or acquiescence of you, and such appointment or withholding shall remain unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive); or

d. There has occurred any material breach of or material default, under any term, covenant, condition, provision, representation, or warranty contained in any Superior Mortgage or in any other mortgage, deed of trust or other lien or encumbrance which is prior to this Mortgage, whether by subordination, or otherwise, which has not been cured within any applicable grace period thereunder; or

e. You shall become insolvent, be found to have made any misrepresentation to us, whether or not any such misrepresentation directly or indirectly resulted in the making of the Agreement, or shall fail to comply with any other agreement related to or contemplated in connection with the execution of this Mortgage; or

f. There has occurred any other breach of or default under any term, covenant, condition, provision, representation or warranty contained in this Mortgage, the Agreement secured hereby, or any other of the instruments given to further evidence or secure the Obligations secured hereby or any part thereof.

19. Acceleration Upon Default, Additional Remedies. Upon the occurrence of any event of default hereunder, all of the Obligations shall, at our option and without notice, presentment, protest or demand, immediately become due and payable and we may:

a. Charge and collect interest on all indebtedness owing under the Agreement and this Mortgage, at the rate per annum provided in the Agreement (including without limitation any additional interest specified therein) before judgment.

b. Take possession and hold, occupy, operate and use the Property, together with any personal property thereon used in the operation of said Property and any business conducted thereon without liability or obligation on its part, and do all such acts affecting said Property as we may deem necessary to keep the Property in good condition and repair and to conserve the value thereof, including (without limitation) make, cancel, enforce, modify or terminate leases and, in furtherance thereof, eject and obtain tenants, set or modify rents, collect all or any part of the rents, issues, profits, royalties or other income and revenues thereon, and after payments of maintenance and operational expenses, apply the same as in the discretion of Lender seems necessary or proper.

c. To the extent permitted by law, bring an action to collect any installment which is due or past due and payable without affecting or losing the security of this Mortgage or waiving any other right or remedy allowed by law.

d. Foreclose this Mortgage in the manner provided by law for the foreclosures of mortgages on real property, bring an action for damages, or exercise such other remedies or combinations of remedies as Lender may have under law and equity.

e. Appoint a receiver to take charge of the Property, collect the rents, issues and profits therefrom, care for and repair the same, improve the same when necessary or desirable, lease and rent the Property or portions thereof (including leases existing beyond the term of the receivership), and otherwise use and utilize the Property, and have such

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Mortgagor promises to promptly deliver to Lender a copy of each notice of default and all other notices received by any Mortgagor in connection with the Superior Mortgage and provide Lender with any additional information that Lender may reasonably require concerning Borrower's observance of the provisions of the Superior Mortgage.

24. Subordination of this Mortgage. The lien of this Mortgage shall be subject and subordinate only to the lien of the Superior Mortgage. Notwithstanding anything to the contrary contained in this Mortgage, this Mortgage shall not be subordinate to any increase or extensions of any indebtedness due under the Superior Mortgage that are made without the prior written consent of the Lender.

23. Reconveyance. When the Agreement is terminated, either at the time the loan matures or earlier if Lender or Borrower terminates the Agreement before the end of the "Draw Period" (as defined in the Agreement), and provided that Lender has been paid all amounts due under the Agreement and this Mortgage, the Lender shall provide a release of the Property from the lien of this Mortgage and shall surrender this Mortgage and the Agreement evidencing indebtedness secured by this Mortgage to Borrower.

22. Borrower's Right to Reinstate. Notwithstanding Lender's acceleration of the amounts secured by this Mortgage due to breach, Mortgagor shall have the right to have any proceedings begun by the Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all amounts which would then be due under this Mortgage and the Agreement had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower set forth in this Mortgage; and (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage and in enforcing Lender's remedies as provided in this Mortgage and the Agreement, above, including, but not limited to reasonable attorney's fees as permitted by applicable law. Upon such payment and cure by the Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

21. Attorneys' Costs, Expenses and Fees. You shall pay all costs, expenses, and fees whatsoever which are in any way related to, or which are in any way incurred in connection with, this Mortgage, the Obligations, or the enforcement or protection of our rights and interests hereunder, including reasonable attorneys' fees.

20. Foreclosure as Mortgage. In any judicial proceeding brought to foreclose this Mortgage as a mortgage, we shall be entitled to recover all costs and expenses (regardless of the particular nature thereof and whether incurred prior to or during such proceeding) incident to the realization of our rights hereunder, including court costs and reasonable attorneys' fees. If a deficiency remains after proper application of the proceeds from the sale had pursuant to judicial decree, you shall pay the same immediately after determination of the amount thereof. Such deficiency shall bear interest at the rate specified in the Agreement.

g. No remedy herein provided shall be exclusive of any other remedy which now exists or which may hereafter exist by law. Every power or remedy hereby given to Lender or to which Lender may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by Lender, and Lender may pursue inconsistent remedies. If we hold any additional security for any obligation hereby, we may enforce the sale thereof at our option, either before, contemporaneously with, or after the sale is made hereunder, and on any default with, or after the sale is made hereunder, and on any default by you, the whole or any part of the indebtedness secured hereby, applicable law, offset against any indebtedness owing by you, the whole or any part of the indebtedness secured hereby. No waiver of any right Lender has under the Agreement or this Mortgage shall affect the lien or priority of this Mortgage.

f. Exercise all of the rights and remedies of a secured party under the Uniform Commercial Code. If there is a judgment for Lender in a lawsuit for foreclosure and sale, Borrower shall pay to Lender reasonable rent from the date the judgment is entered or the nonjudicial sale occurs for so long as Borrower occupies the Property. However, this does not give Borrower the right to occupy the Property. All rental payments collected by Lender or by any receiver, other than the rent paid by Borrower under this Mortgage, shall be used first to pay the costs of collecting rental payments and of managing the Property. If any part of the rental payments remains after those costs have been paid in full, the remaining part shall be used to reduce the sums owed to Lender under the Agreement and this Mortgage. The costs of managing the Property may include receiver's fees, reasonable attorneys' fees as permitted by applicable law, and the costs of any necessary bonds.

other powers as may be fixed by the Court. Trustor specifically agrees that the Court may appoint a receiver without reference to the adequacy or inadequacy of the security, or the solvency or insolvency of you, and without reference to other matters normally taken into account by Courts in the discretionary appointment of a receiver, it being your intention to hereby authorize the appointment of a receiver when you are in default and Lender has requested the appointment of a receiver.

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Each Mortgagor appoints Lender as its attorney-in-fact to perform any or all of each Mortgagor's obligations under any Superior Mortgage which Lender deems necessary to prevent or cure any default by any Mortgagor under any Superior Mortgage. Mortgagor shall, within five (5) days after written request is made by Lender (or any person designated by Lender), send to Lender any documents which are necessary to complete this interest or as may be reasonably required by Lender.

Lender may rely on any notice of default by the holder of the Superior Mortgage ("Superior Lender") to any Mortgagor under the Superior Mortgage, and may take any reasonable action necessary even though any Mortgagor denies that a default under Superior Mortgage exists.

If Mortgagor does not comply with this Paragraph or becomes in default under the Superior Mortgage, then in addition to any other available remedies, Lender may cure such defaults and Lender shall be subrogated to the rights to the Lender under the Superior Mortgage (the "Superior Lender") against each Mortgagor and the Property. This means that if Lender performs for any Mortgagor any of Mortgagor's obligations under the Superior Mortgage, then Lender will have the same rights against each Mortgagor regarding such default as the Superior Lender would have against each Mortgagor regarding such default. However, this will be in addition to all other rights and remedies that Lender will have under the Agreement and this Mortgage regarding such default. Although Lender may take action under the conditions described in this Paragraph, Lender does not have to do so.

Mortgagor agrees to deliver to Lender at the address and in the manner stated in this Mortgage copies of notices of default and/or sale and foreclosure that are received by any Mortgagor in connection with the Superior Mortgage.

25. **Lender's Authority.** At any time, or from time to time, without liability therefor and without notice, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Mortgage upon the Property, Lender may (i) consent in writing to the making or recording of any map or plat of said Property or any part thereof; (ii) join in granting any easement and/or recording or creating any restriction thereon; or (iii) join in any extension or modification agreement affecting this Mortgage or any agreement subordinating the lien or charge hereof.

26. **Lender's Powers.** Without affecting the liability of any other person liable for the payment of any obligations or indebtedness herein mentioned, and without affecting the lien or charge of this Mortgage upon any portion of the Property not then or theretofore released as security for the full amount of all unpaid indebtedness or obligations secured hereby, Lender may, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligations or indebtedness, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at our option any parcel, portion or all of the Property, (v) take or release any other or additional security for any obligations or indebtedness herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto.

27. **Acceptance of Liabilities by Land Trustee.** If title to the Property is held in an Illinois Land Trust, the Land Trustee acknowledges and agrees that it is liable for and will discharge and perform the obligations of Borrowers under this Mortgage as now or hereafter in effect, and, except as otherwise expressly provided herein, that the Property is hereby mortgaged and subject to payment for all of the liabilities, indebtedness and obligations arising under the Agreement and this Mortgage.

28. **Miscellaneous.** The parties further agree as follows:

- a. Time is of essence in this Mortgage.
- b. For purposes of the Agreement and this Mortgage, Lender shall not be deemed to have actual knowledge of any fact until it actually receives notice as set forth in this Mortgage. The date of receipt shall be determined by reference to the "received" date stamped on such written notice by Lender or its agent.
- c. The headings in this Mortgage are not to be used to interpret or define its provisions. In this Mortgage, the masculine gender includes the feminine and/or neuter, singular numbers include the plurals, and plurals include the singular.
- d. To the extent permitted by law, for Borrower's successors and assigns, Borrower hereby waives the benefit of all homestead, dower, curtesy, appraisal valuation, redemption, reinstatement, stay, extension, exemption, and moratorium laws now existing or hereafter enacted and any right to have the Property marshalled upon foreclosure.
- e. This Mortgage may not be changed except by an instrument in writing signed by Mortgagor and Lender, except that Lender may waive, by a signed writing delivered to any Borrower, any specific provision or provisions of this Mortgage without the consent of any or all of the Mortgagors.

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31. Maximum Credit Amount. In no event, without amendment, shall this Mortgage secure indebtedness exceeding three times the amount of the Credit Limit specified on page one.

_____	Development Rider
_____	Planned Unit Rider
X _____	Condominium Rider
_____	2-6 Family Rider
_____	Others (specify)

30. Riders to this Mortgage. If one or more riders are executed by Borrowers and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were a part of this Mortgage [Check applicable blank spaces.]

29. Incorporation of Exhibits. Any exhibits attached to this Mortgage hereby are incorporated into and shall be deemed a part of this Mortgage by this reference.

The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and each Mortgagee, subject to the provisions of this Mortgage. All covenants and agreements of Borrowers hereunder shall be joint and several obligations and covenants of each Mortgagee. Any Mortgagee who co-signs this Mortgage but does not execute the Agreement: (a) is co-signing this Mortgage only to mortgage, grant, assign and convey that Mortgagee's interest in the Property to the Lender under terms of this Mortgage and to release all homestead, dower, curtesy, appraisement, valuation, redemption, reinstatement, stay, extension, exemption, and moratorium laws now existing or hereafter enacted and to waive any right to have the Property marshalled upon foreclosure; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear, or make any accommodations with regard to the terms of this Mortgage or the Agreement without that Mortgagee's consent.

Unless applicable law requires a different method, any notice that must be given to you under this Mortgage will be given by delivering it or by mailing it by first-class, registered or certified mail to you at the Property Address above or at a different address if you give us notice of your different address, and if the Property is held in an Illinois Land Trust, to the Land Trustee at its address stated above or as changed by written notice received by Lender. You have the right to request a copy of any notice of default and any other notice be mailed to you at the Property Address or at a different address provided to us.

h. Mortgagee requests that copies of the notice of default under this Mortgage be sent to Borrower's Address which is the Property address, and, if the Property is in an Illinois Land Trust, that notice also be sent to the Land Trustee at its address shown above. Lender requests that copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage be sent to Lender's address, as set forth on page one of this Mortgage, as provided by applicable law.

g. Mortgagee shall be given one conformed copy of the Agreement and this Mortgage.

f. This Mortgage shall be governed by the law of the State where the Property is located and, where applicable, federal law. In the event that any provision or clause of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Agreement which can be given effect without the conflicting provision. To this end the provisions of this Mortgage and the Agreement shall in no way affect the validity or enforceability of the remainder hereof. If the lien of this Mortgage is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of such obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of such obligations and indebtedness, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the obligations or indebtedness which is not secured or fully secured by the lien of this Mortgage.



BORROWER(S)

Peter F. McCarthy  
PETER F. MCCARTHY

STATE OF ILLINOIS )

COUNTY OF COOK )

On the 27TH day of OCTOBER, 1995, personally appeared before me  
PETER F. MCCARTHY

the  
signer(s) of the above instrument, who duly acknowledged to me that he executed the same.

.....  
"OFFICIAL SEAL"  
YOLANDA SEGUNDY  
Notary Public, State of Illinois  
My Commission Expires Jan. 25, 1998  
.....

Yolanda Segundy  
NOTARY PUBLIC  
Residing at: 2802 N. Western Chicago IL

My Commission Expires:  
1-25-98

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(This signature page to be used only if title to the mortgaged Property is held in an Illinois Land Trust.)

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My Commission Expires: \_\_\_\_\_

NOTARY PUBLIC

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the within Mortgage as their free and voluntary act, and as the free and voluntary act and deed of said corporation or association, for the uses and purposes therein set forth.

Trust Officer and Vice President, Trust Officer or Secretary of \_\_\_\_\_ Vice President or \_\_\_\_\_

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that

STATE OF ILLINOIS )  
COUNTY OF \_\_\_\_\_ )  
( ) SS. )

Attest: \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

This Mortgage is executed by the Land Trustee identified above but solely as trustee under the Land Trust identified above. In the exercise of the power and authority conferred upon and vested in it as such trustee, and it is expressly understood and agreed by the Lender and by every person now or hereafter claiming any interest, right or security hereunder that nothing contained herein or in any other document or agreement relating hereto shall be construed as creating any liability on the part of the Land Trustee personally to pay any indebtedness secured hereby or arising hereunder or to perform any covenants either express or implied herein contained or referred, all such liability as to the Land Trustee, being expressly waived, and that any recovery under the Mortgage secured hereby, as to the Land Trustee, shall be solely against and out of the Property by enforcement of this Mortgage, but this waiver and exculpation shall in no way affect the personal liability of any Borrower under the Agreement as to any liability, obligation or indebtedness arising under the Agreement or this Mortgage.

(Land Trustee's Signature)

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## EXHIBIT A

(Legal Description of Property)

ALL THAT CERTAIN PARCEL OF LAND IN CITY OF CHICAGO, COOK COUNTY, STATE OF ILLINOIS AS MORE FULLY DESCRIBED IN DEED W# 87585359, ID# 20-12-111-024-1010 BEING KNOWN AND DESIGNATED AS UNIT 530/#1 IN COLUMBIAN CONDOMINIUM, AS DELINEATED ON SURVEY OF THE FOLLOWING DESCRIBED PARCEL OF REAL ESTATE. LOT 16, 17 AND 18, EXCEPT THE E. 16 FEET OF SAID LOTS IN BLOCK 34 HYDE PARK BEING A SUBDIVISION OF THE E 1/2 OF THE SE 1/4 OF THE E 1/2 OF THE NE FRACTIONAL 1/4 OF SECTION 12 AND THE NE 1/4 OF THE NE 1/4 OF SECTION 14, T30N R14E OF THE 3RD PRINCIPAL MERIDIAN IN COOK COUNTY, IL REFERRED TO AS PARCEL WHICH SURVEY IS ATTACHED AS EXHIBIT A TO THE DECLARATION OF CONDOMINIUM MADE BY MICHIGAN AVENUE NATIONAL BANK OF CHICAGO, #2156, RECORDED DOC# 22932911 TOGETHER WITH AN UNDIVIDED 5.9060% INTEREST IN SAID PARCEL (EXCEPT FROM SAID PARCEL OF THE PROPERTY AND SPACE COMPRISING ALL THE UNITS THEREOF AS DEFINED AND SET FORTH IN SAID DECLARATION AND SURVEY IN COOK COUNTY.

Clerk of Cook County Clerk's Office

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Property of Cook County Clerk's Office

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## CONDOMINIUM RIDER

THIS CONDOMINIUM RIDER (this "Rider") is made this 27TH day of OCTOBER, 19 95, and is incorporated into and shall be deemed to amend and supplement that certain Revolving Home Equity Deed of Trust (the "Deed of Trust"), of the same date as this Rider, given by the undersigned (the "Borrower") to secure the Borrower's obligations to Monogram Home Equity Corporation and its successors and/or assigns (the "Lender"), and covering the Property, as described in the Deed of Trust, and located at:

5307 SOUTH CORNELL AVENUE CHICAGO, IL 60615

The Property includes Unit 530/#1 (the "Unit") in, together with a 5.9060 Percent (5.9060%)

undivided interest in the common elements (the "Common Elements") of, a condominium project known as COLUMBIAN CONDOMINIUM (the "Condominium Project").

In addition to the Property described in the Deed of Trust, if the owners association or other entity which acts for the Condominium Project (the "Owners Association") holds title to property for the benefit or use of its members or shareholders, the Borrower's interest in the Owners Association and the uses, proceeds and benefits of the Borrower's interest in such property shall be covered by the lien created by the Deed of Trust, and shall also constitute the Property as defined in the Deed of Trust.

**THE BORROWER'S COVENANTS.** In addition to the covenants and agreements made in the Deed of Trust, the Borrower further covenants and agrees as follows:

**A. CONDOMINIUM OBLIGATIONS.** The Borrower shall perform all of its obligations under the following documents (collectively, the "Constituent Documents"): (i) the declaration or any other document which creates the Condominium Project; (ii) the by-laws; (iii) the code of regulations; and (iv) all other equivalent documents. The Borrower shall promptly pay, when due, all dues and assessments imposed on the Borrower or the Property pursuant to the Constituent Documents. A breach of the preceding sentence that adversely affects the security of the Deed of Trust or any right of the Lender in the security of the Deed of Trust entitles Lender to, among other things, terminate the Note (as such term is defined in the Deed of Trust) and demand immediate payment in full.

**B. HAZARD INSURANCE.** So long as the Owners Association maintains, with an insurance carrier acceptable to the Lender, a "master" or "blanket" policy on the Condominium Project which is satisfactory to the Lender and which provides insurance coverage in the amounts, for the periods and against the hazards the Lender requires, including fire and hazards included within the term "extended coverage," then:

(i) the Borrower's obligation under Paragraph (4) of the Deed of Trust to maintain hazard insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy; and

(ii) the provisions in Paragraph (4) of the Deed of Trust regarding application of hazard insurance proceeds shall be superseded by the provisions of the Constituent Documents or of applicable law, but only to the extent necessary to avoid a conflict between such provisions and the provisions of Paragraph (4) of the Deed of Trust.

For any period of time during which the insurance coverage referred to in this Paragraph B lapses or is not in effect, the provisions of clauses (i) and (ii) of this Paragraph B shall be deemed to have no force or effect.

The Borrower shall give the Lender prompt notice of any lapse in required insurance coverage.

Subject to the provisions of clause (ii) of this Paragraph B, in the event of a loss or damage to the Property, any insurance proceeds that exist will be distributed in accordance with Paragraph (4) of the Deed of Trust.

**C. PUBLIC LIABILITY INSURANCE.** The Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to the Lender.

**D. CONDEMNATION.** A condemnation or other taking of all or any part of the Property, including, without limitation, all or any part of the Unit and/or the Common Elements, shall be governed by the provisions of Paragraph (8) of the Deed of Trust.

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**E. THE LENDER'S PRIOR CONSENT.** The Borrower shall not, except after notice to the Lender and with the Lender's prior written consent:

(i) allow a partition or subdivision of all or any part of the Property;

(ii) consent to the abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a substantial taking by condemnation;

(iii) consent to any amendment to any provision of the Constituent Documents, including, without limitation, any amendment which would change the percentage interests of a unit owner in the Condominium Project;

(iv) consent to the termination of professional management and assumption of self-management of the Owners Association; or

(v) consent to any action which would have the effect of rendering the insurance coverage maintained by the Owners Association unacceptable to the Lender.

**F. REMEDIES.** If the Borrower fails to perform any or all of its obligations under the Constituent Documents, the Lender may, but shall not be obligated to, perform such obligations on the Borrower's behalf. If the Borrower does not pay condominium dues and/or assessments when due, then the Lender may, but shall not be obligated to, pay them. Any amount paid or expenses incurred by the Lender under this Paragraph F shall be treated as if such payment by the Lender was made or incurred pursuant to Paragraph (6) of the Deed of Trust. If the Borrower breaches any of the provisions of this Rider, such breach shall be deemed a breach of the Deed of Trust and the Lender shall be entitled to exercise any and all of the remedies provided to the Lender for breaches of this type, either in the Note or Deed of Trust or at law.

**G. PERMITTED ENCUMBRANCES.** The term Permitted Encumbrances shall have the definition as set forth in the Deed of Trust and shall include the Owners Association's rights in any of the Constituent Documents.

**H. CONFLICTS.** If any provision of this Rider and the Deed of Trust conflict, the provisions of this Rider shall be deemed the controlling intent of the Borrower and the Lender. Further, the provisions of the Note, Deed of Trust and this Rider together shall constitute the entire agreement between the Borrower and the Lender, with all provisions in the Note and Deed of Trust fully applying, except those in direct conflict with a later provision of this Rider.

**I. NOTICE.** Notices under this Rider shall be sent in the same manner as provided in Paragraph (12) of the Deed of Trust.

BY SIGNING BELOW, the Borrower accepts and agrees to the terms and provisions contained in this Condominium Rider.

Borrower: \_\_\_\_\_ (Seal)  
*Peter F. McCarthy*  
Borrower: \_\_\_\_\_ (Seal)

Borrower: \_\_\_\_\_ (Seal)  
Borrower: \_\_\_\_\_ (Seal)

Property of Cook County, Illinois